

memorandum

October 15, 2004

DATE:

REPLY TO
ATTN OF:

Office of Air, Water and Radiation Protection Policy and Guidance (EH-41):Koss:6-7964

SUBJECT:

Information – Implications of the Environmental Protection Agency's Implementation Rule for the 8-Hour Ozone Ambient Air Quality Standard to Departmental Sites

TO:

Distribution

In 1979, the Environmental Protection Agency (EPA) promulgated a 1-hour ozone National Ambient Air Quality Standard (NAAQS). In 1997, EPA promulgated a revised ozone ambient standard measured over an 8-hour period, which EPA indicates is more protective of human health and more stringent than the 1-hour NAAQS. The 1-hour and 8-hour standards are set out at 40 CFR Part 50.9 and 50.10, respectively.

EPA is in the process of transitioning the 1-hour standard to the 8-hour standard. On April 30, 2004, EPA issued a final rule in the *Federal Register* (69 FR 23858; available at the Department of Energy (DOE) Environmental Policy and Guidance Web site at <<http://www.eh.doe.gov/oepa/rules/69/69fr23858.pdf>>), which provided the air quality attainment and nonattainment designations and classifications for every area in the U.S. for the 8-hour standard. EPA also issued a Phase 1 final rule on April 30, 2004, (69 FR 23951; available at <<http://www.eh.doe.gov/oepa/rules/69/69fr23951.pdf>>) which contained requirements relating to the transition from the 1-hour standard to the 8-hour standard. Although much of 69 FR 23951 is directed to States to regulate their planning obligations for implementing the 8-hour ozone NAAQS, elements in the rulemaking have relevance to DOE operations. EPA has released an informative Fact Sheet on these two April 30 rules (available at <<http://www.epa.gov/ozonedesignations/finrulefs.htm>>). EPA plans to issue an additional Phase 2 final rule relating to implementation of the 8-hour standard that will include requirements for: reasonable further progress, reasonably available control technology, attainment demonstrations and maintenance plans, and new source review (69 FR 23953).

EPA will revoke the 1-hour standard, including the associated designations and classifications, 1 year following the effective date of the designations for the 8-hour standard (*i.e.*, the 1-hour standard will be revoked on June 15, 2005). To avoid "backsliding" (*i.e.*, losing clean air progress towards attaining the 1-hour standard), 69 FR 23951 requires the very specific control measures for the 1-hour standard that are included in a State implementation plan to stay in place until an area attains the 8-hour standard.

In light of EPA's issuance of 8-hour ozone air quality designations and classifications, EH-41 has recently revised its web-based table, "EPA Air Quality Designations & Classifications for Areas with DOE Sites" (available at <<http://homer.ornl.gov/oepa/data/naaqs.cfm>>) to include the 8-hour ozone data. The web-based table shows that about half of the listed DOE sites are in nonattainment areas for the

8-hour ozone NAAQS. The attached table, developed from information in the web-based table, lists DOE sites that previously were in attainment areas for the 1-hour ozone NAAQS and are in nonattainment areas for the 8-hour ozone NAAQS.

EPA has prepared a summary table of sample requirements applicable to 8-hour ozone nonattainment areas which can be viewed at:

<<http://www.epa.gov/ozonedesignations/ozonesamplerrequirements.pdf>>. Some of the DOE sites in the attached table that have sources of nitrogen oxides (NO_x) and volatile organic compounds (VOCs) could be subject to certain of these requirements. For example, application of reasonably available control technology could be required for existing sources pursuant to Section 172(c)(1) of the Clean Air Act (CAA). EPA's forthcoming Phase 2 rulemaking will further address requirements that may be applied to sources in new nonattainment areas under the 8-hour standard.

Also, all DOE sites and program offices undertaking a proposed action that would cause emissions of NO_x and VOCs to occur in an ozone nonattainment or maintenance area will be required to conduct a general conformity analysis to demonstrate that the action would conform with applicable State or Federal implementation plans for achieving the 8-hour ozone NAAQS.¹ Conformity requirements for the 1-hour standard will end on June 15, 2005, at which time conformity requirements for the 8-hour standard will commence (per Section 176(c)(6) of the CAA). In addition, some DOE sites in ozone nonattainment areas could be subject to future EPA regulations on inspection and maintenance requirements for DOE and employee vehicles.²

Questions on this material should be directed to Ted Koss of my staff at:
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Andrew Wallo
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Office of Air, Water and Radiation
Protection Policy and Guidance

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¹ The absence of an evaluation of air emissions associated with a proposed DOE action constitutes a violation of the applicable general conformity rule (*i.e.*, EPA's rule at 40 CFR Part 93, or the State general conformity rule, or the California air district rule).

² In EPA's most recent semiannual regulatory agenda (69 FR 38154; June 28 2004), the Agency indicated that the timetable for release of this proposed rule has not been determined (69 FR 38238).

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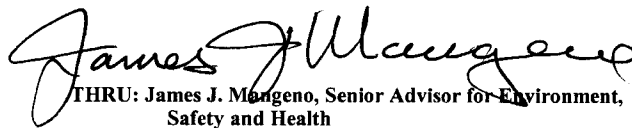
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Center for Environmental Management Information

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DOE Sites in 8-hour Ozone Nonattainment Areas that Were Previously in Attainment with the 1-hour Ozone Standard

State	DOE Site	City/County	8 Hour Ozone Classification ^a	Early Action Compact Area ^b
Colorado	National Renewable Energy Laboratory	Golden/Jefferson ^c	Subpart 1 Nonattainment ^d	Yes
Colorado	Rocky Flats Environmental Technology Site	Golden/Jefferson ^c	Subpart 1 Nonattainment ^d	Yes
Ohio	Battelle Columbus Laboratory	Columbus/Franklin ^c	Subpart 1 Nonattainment ^d	No
Ohio	Miamisburg Environmental Management Project	Miamisburg/Montgomery ^c	Subpart 1 Nonattainment ^d	No
Pennsylvania	Bettis Atomic Power Laboratory	West Mifflin/Allegheny ^c	Subpart 1 Nonattainment ^d	No
Pennsylvania	National Energy Technology Laboratory, Pittsburgh	Pittsburgh/Allegheny ^c	Subpart 1 Nonattainment ^d	No
Pennsylvania	Pittsburgh Naval Reactors Office	West Mifflin/Allegheny ^c	Subpart 1 Nonattainment ^d	No
Pennsylvania	Shippingport Atomic Power Laboratory	Shippingport/Beaver ^c	Subpart 1 Nonattainment ^d	No
Tennessee	Oak Ridge National Laboratory	Oak Ridge/Anderson & Roane	Subpart 1 Nonattainment ^d & Attainment ^e	Revoked ^f
Tennessee	Y-12 Plant	Oak Ridge/Anderson	Subpart 1 Nonattainment ^d	Revoked ^f
Virginia	Thomas Jefferson National Accelerator Facility	Newport News/York	Marginal Nonattainment	No

^a Under the final designations/classifications and implementation rules that became effective on June 15, 2004, each area with a current 1-hour design value at or above 0.121 ppm is classified under Subchapter 1, Part D, Subpart 2 (42 USC 7511-7511f) of the Clean Air Act (CAA) based on its 8-hour design value. All other areas with a 1-hour design value below 0.121 ppm will be covered under Subpart 1 using their 8-hour design value. Both Subpart 1 and 2 require attainment “as expeditiously as practicable,” regardless of the maximum attainment dates specified in the CAA. For areas under Subpart 1, the maximum period for attainment will be no later than five years after the effective date of designation; if warranted, the Environmental Protection Agency (EPA) may grant an attainment date no later than 10 years after the designation. For areas under Subpart 2, the maximum period for attainment will be three years for marginal classifications; six years for moderate; nine years for serious; 15 or 17 years for severe; and 20 years for extreme.

^b An “Early Action Compact Area” is an area that has entered into a voluntary agreement with EPA to attain the 8-hour ozone ambient standard under an accelerated timetable in exchange for deferral of the nonattainment designation and classification that would otherwise be required (69 FR 23866; April 30, 2004). The April 30, 2004, rule provides for early action compacts. This term is defined at 40 CFR 81.300(e) (69 FR 23876). State and local governments that have executed early action compacts with EPA must submit plans for meeting the 8-hour standard in 2004, rather than waiting until 2007, which is the deadline for other areas not meeting the 8-hour standard. Early action compacts require communities to: develop and implement air pollution control strategies, account for emissions growth, and achieve and

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DOE Sites in 8-hour Ozone Nonattainment Areas that Were Previously in Attainment with the 1-hour Ozone Standard

maintain the 8-hour ozone ambient standard. The 8-hour ozone nonattainment designation for compact areas that have met all milestones is deferred until September 30, 2005 (69 FR 23858). Additional information relating to early action compacts is available at: <<http://www.epa.gov/ttn/naaqs/ozone/eac/>>.

^c This area is a maintenance area for the 1-hour ozone standard.

^d Areas designated “Basic” nonattainment under Subpart 1 of Part D under Subchapter I of the CAA are areas with a 1-hour ozone design value (at the time of designation) that is below the level of 0.121 ppm.

^e The Oak Ridge National Laboratory complex is located in two adjacent counties. Anderson County has been designated as a Subpart 1 nonattainment area, and Roane County has been designated as an attainment area. Oak Ridge staff has indicated that the Laboratory’s sources of air emissions are in Roane County.

^f Per EPA’s final rule (69 FR 23857; April 30, 2004) on designations and classifications under the 8-hour ozone standard, the Agency determined that the Knoxville Metropolitan Statistical Area, which includes Anderson County, failed to meet the March 31, 2004, control plan milestone. Under the Early Action Protocol and Agency guidance, all Early Action Compact areas must meet all compact milestones to be eligible for the deferred effective date of designation. Consequently, on April 30, 2004, the Knoxville area was designated nonattainment under the 8-hour ozone standard, effective June 15, 2004, and became subject to full planning requirements of Subchapter I, Part D of the CAA.